

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

NAIYANA V. GRAVELY, D.O.,

Plaintiff,

v.

MELANIE K. BORTELL, D.O.,
CYNTHIA S. KELLEY, D.O., PAUL D.
CHENOWITH, D.O., and SUMMA
HEALTH SYSTEM,

Defendants.

Case No. 1:22-cv-01588-CEF

Hon. Charles Esque Fleming

UNOPPOSED MOTION TO STAY ALL DEADLINES

The Parties have a fundamental discovery issue concerning peer review privilege (Ohio R.C. §2305.252), as discussed below. In order to avoid unnecessary dispute (and related time and expense – both for the parties and the Court), the Parties, through their undersigned counsel, have agreed to the following plan, subject to the Court’s approval. Defendants, therefore, present this unopposed motion to stay all proceedings and deadlines in this case pending the issuance of a ruling from the Ohio Supreme Court and the result of private mediation. As grounds for this Motion:

1. The Parties are actively engaged in discovery. To date, the Parties have exchanged written discovery requests. Plaintiff responded to Defendants written discovery requests on January 10, 2024, following Defendants’ granting of Plaintiff’s requests for an extension of the deadline for the same. Defendants intend to respond to Plaintiff’s written discovery requests on March 18, 2024, following Plaintiff’s grant of extensions of the deadline for the same.

2. As noted above, the Parties have encountered a fundamental discovery issue involving the peer review privilege, which is currently before the Ohio Supreme Court. *See Kalvyn Stull, An Incompetent Person, by and through his Guardian of the Estate, Brian Zimmerman, et al. v. Summa Health System, et al.*, Case No. 2023-0352, Supreme Court of Ohio (filed March 13, 2023). The issue is core to this case, as it involves the discovery of evaluation records of Plaintiff and any alleged comparators. The Parties understand that the decision of the Ohio Supreme Court will be instructive, if not more, on how to resolve their dispute. The case was argued on November 14, 2023 before the Ohio Supreme Court and a decision is expected in the short term though, of course, the timing is uncertain.

3. In light of the pending decision from the Ohio Supreme Court that is germane to this dispute, and to avoid the expenditure of additional time and resources on the dispute by both the Parties and the Court, the Parties respectfully seek the requested stay.

4. The stay is also respectfully requested so that the Parties may engage in private mediation. To this end, the Parties have already secured a mediation date of April 17, 2024 with Jerry Weiss of Mediation, Inc.

5. Thus, this Motion is not interposed for the purpose of delay and the requested stay will not prejudice the Parties.

6. If mediation fails to result in a resolution and the Ohio Supreme Court issues a decision regarding the above-referenced discovery issue, the Parties will convene with the Court to set a new case schedule.

WHEREFORE, for the foregoing reasons, Defendants respectfully move this Court to stay the case pending mediation and a decision from the Ohio Supreme Court on the fundamental discovery issue outlined above. An accompanying proposed order is attached to this Motion.

Dated: March 11, 2024

Respectfully submitted,

/s/ Johanna Fabrizio Parker

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2024, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Johanna Fabrizio Parker

Johanna Fabrizio Parker

One of the Attorneys for Defendants Summa Health System, Melanie Bortell, Cynthia Kelley and Paul Chenowith